HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.504 of 2007

Between:

The Government of India,
Rep. by its Deputy Secretary,
Ministry of Shipping, Road Transport and Highways,
(Dept. of Road Transport and Highways),
New Delhi and another

… Appellants

And

M. Ramesh Babu and others

… Respondents

Counsel for the appellants: Shri P. Venugopal with
Shri S.S. Varma

Counsel for the respondents: Shri Noushad Ali

::JUDGMENT::

September 19, 2007

Per G.S. Singhvi, CJ

This appeal is directed against order dated 23.4.2007 passed by the learned Single Judge in Writ Petition No.378 of 2007 whereby he quashed notification dated 9.10.2006 issued by appellant No.1 under Section 3-D (2) of the National Highways Act, 1956 (for short,

'the Act') for acquisition of land for widening of National Highway No.7 (NH-7) from K.M. 203.00 to K.M. 293.00 (Hyderabad – Bangalore Section) in Kurnool District.

The background facts:

For widening of NH-7 on Hyderabad – Bangalore Section, the National Highway Authority of India (NHAI) got conducted extensive survey through DPR Consultants M/s.Meinhard Singapore Private Limited. Thereafter, the Central Government (Department of Road Transport and Highways, Ministry of Shipping, Road Transport and Highways) issued Notification No. S.O.1489 (E), dated 17.10.2005 under Section 3-A (1) of the National Highways Act, 1956 (for short, 'the Act') proposing acquisition of different parcels of land in Ulindakonda, Chetlamallapuram and Kallur Villages of Kurnool District on the stretch of land from Km. 203.000 to Km. 293.000 and invited objections from the interested persons. The notification was published in the Gazette of India, Extra-ordinary Part-II, Section 3, Sub-Section (ii) and two newspapers, namely, "Praja Shakti" and "The Hindu" dated 22.11.2005. It was clearly indicated in the notification that the land plans and other details of land are available and can be inspected by the interested persons at the office of the Competent Authority. Some of the persons, whose land was sought to be acquired, filed objections. After considering the objections and giving them opportunity of personal hearing, Competent Authority-cum-Joint Collector, Kurnool (appellant No.2 herein) submitted report under Section 3-D (1). This was followed by issue of Notification dated 9.10.2006 under Section 3-D (2).

The respondents, who are owners of the shops constructed in Survey Nos.430C/2F, 439C/2B, 439D/3F, 440/2B1, 440/2B3 of Kurnool Town challenged the final notification in Writ Petition No.378

of 2007 by asserting that the preliminary notification dated 17.10.2005 was vague inasmuch as it did not contain names of the persons whose land was sought to be acquired and, on that account, they could not submit objections. Another plea taken by the respondents was that the preliminary notification was not published in prominent vernacular local newspapers. For better appreciation of the case set up by the respondents, which found favour with the learned Single Judge, paragraphs 2, 3, 4 and ground 'c' of the writ affidavit filed by respondent No.1 – M. Ramesh Babu are extracted below:

> 2. The petitioners herein respectfully submit that they are the owners of the shops situated in Kurnool town. The first petitioner is the owner of 3 shops and he is running business in Automobile spare parts in the name and style "Manikanta Automobiles". The petitioners 2 to 4 also own 3 shops each. All the above shops are situated in Sy. Nos.440/2B1 and 430/C/2F of Kallur Mandal, Kurnool District. The 5th petitioner is the owner of 6 cents of land situated in Sy.No.439/D/3D. The 6th petitioner is the owner of 120 cents of land situated in Sy.Nos.439/D/3F and 439/C/2B of Kallur Mandal, Kurnool District. All the petitioners have been paying necessary taxes and they have been in uninterrupted and peaceful enjoyment of the said property.
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> 3. The petitioners respectfully submit that the 1st respondent herein in order to acquire some land for widening N.H.No.7 on the stretch of land from Km.203.000 to 293.000 (Hyd – Bangalore Sec.) in Kurnool District appears to have issued a notification SO No.1489 (E) dated 17-10-2005 under Sec.3A (1) of the National Highways Act, 1956. Under the said notification, the 1st respondent herein appears to have invited objections from the persons interested in the land. The 2nd respondent herein has been designated as the Competent Authority for the said purpose.
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> 4. In the aforesaid application, no details were given with reference to the owners/possessors of the lands who were proposed to be affected. Vague particulars were given therein indicating only Sy.Nos. type of land such as private or Government and the area

proposed to be covered. The area proposed to be covered in each Sy.No. rangers from Ac.0.01 to Ac.8.51 inasmuch as the aforesaid notification did not disclose the names of the persons who were likely to be affected and inasmuch as the notification was not published in prominent vernacular local newspapers, the petitioners herein could not file their objections. The 1st respondent herein ultimately issued a notification SO.No.1732 (E) dated 09-10-2006 under Sec.3 D(1) and Sec.3 D(2) of the National Highways Act, 1956. In the said notification, the names of the petitioners were shown as the land owners/interested persons. The 2nd respondent herein issued a notification No.2301/02/2006/PIV-ATP/dated 24-11-2006 published in the newspaper Vaartha dated 1-11-2006 calling upon the interested persons to appear before him on 5-12-2006 along with the documents to support their ownership. The petitioners having noticed the same, objected for the acquisition of the land without their knowledge and without notice to them. The 2nd respondent herein expressed his inability to entertain any objection as the petitioners did not file the objections to the draft notification dated 17-10-2005. The petitioners are therefore constrained to file the present writ petition questioning the legality and validity of the notification issued by the first respondent herein SO No.1732 (E) dated 09-10-2006 for the following amongst other;

: GROUNDS :

… … … …

(c) The impugned notification merely mentioned by the Sy.Nos. and extent of the lands proposed to be acquired in each Sy.No. The Notification merely mentioned the type of land i.e. whether private or Government. It may be relevant to mention here that in each Sy.No. large extent of land is available, but in the Notification small bits were alone shown. For eg. in Sy.Nos 430 C/2F, 440/2B1, 440/2B3, 439 D/3F and 439 C/2B the total extent of land is more than 3 acres in each Sy.No. whereas in the notification the extent shown is as small as ranging from 0.03 to 0.20. In the notification it was not indicated where these small bits are situated and who are the owners of the said bits of the land. It is submitted that these details are very vital and non-disclosure of the same deprives the persons concerned to raise their objections as a consequence of these fatal lapse on the part of the first respondent herein, the petitioners had no opportunity to raise their objections regarding the proposed acquisition of the land. In view of this vital lapse, the

notification suffers from vagueness and hence the same is not in accordance with the law.

… … …

In the counter-affidavit filed by him, Shri Ganapati Reddy, General Manager and Project Director, National Highway Authority of India, Project Implementation Unit, Hyderabad averred that NHAI has undertaken widening of existing two lane of NH-7 as part of North-South corridor; that extensive survey was carried out by DPR Consultants M/s.Meinhard Singapore Private Limited from Km.133.000 to Km.211.000 of Hyderabad – Bangalore Section and the proposed alignment is based on the site consideration and other technical aspects. Shri Ganapati Reddy further averred that before issuing notification under Section 3-A (1), survey was conducted and stones were erected showing the extent of the sites likely to be affected due to widening of the road, that even though the petitioners were aware of the proposed acquisition of their land, none of them filed objections within the statutory period of 21 days and that after considering the objections filed by other persons and giving them opportunity of hearing, final notification dated 9.10.2006 was issued under Section 3-D (2).

In a separate affidavit filed by him, Shri Ram Sankar Naik, Joint Collector and Competent Authority, NH-7 Lanning work, Kurnool District denied the assertion contained in the affidavit of Shri M. Ramesh Babu (respondent No.1 herein) that notification dated 17.10.2005 was vague. According to Shri Naik, the preliminary notification was issued in the prescribed format and final notification was issued after considering the objections filed by the interested persons. Paragraphs 6 and 10 of the affidavit of Shri Ram Sankar Naik read as under:

6. It is submitted that the alignment was approved based on the DPR Consultants' proposal. The opinion of independent consultant

was also obtained. The changes proposed by the petitioner involve demolition of existing bridge across Vokkileru River which is still fairly in good condition. Further, it is never advisable to dismantle the existing bridge which is in good condition and construct a new one at the very same location for the benefit of the petitioners.

10. It is submitted that as stated above, the entire procedure for acquisition of the land in question was followed by the respondents in acquiring the land of the petitioners. Accordingly, a final notification under Sec.3G of National Highway Act was got published on 01-12-2006. All the other persons have responded to the said notification and the 2nd respondent has to conduct the Award enquiry for the payment of compensation. The petitioners are entitled of compensation."

Respondent No.1 filed rejoinder affidavits and reiterated that notification issued under Section 3-A (1) did not contain the names of land owners and extent of the land of the particular survey number, which was sought to be acquired and, on that account, the petitioners (the respondents herein) could not file objections.

The learned Single Judge briefly adverted to the pleadings and held that notification dated 17.10.2005 was vague and, on that account, the writ petitioners could not get opportunity to submit objections. The learned Single Judge then observed that the right to lodge objections to the acquisition becomes meaningful and effective only when a person interested is in a position to learn from the notification that his land is proposed to be acquired and that the writ petitioners were deprived of their right to lodge objections because notification dated 17.10.2005 was thoroughly laconic. Accordingly, he quashed notification dated 9.10.2006. The operative part of the order of the learned Single Judge reads as under:

"The notification dated.09-10-2006 in S.O.No.1732(E) issued by the 1st respondent is accordingly quashed to the extent it notifies the lands in Survey/Division Nos.430C/2F, 440/2B1, 440/2B3, 439D/3F, 439C/2B of Kallur village and Mandal, Kurnool District. The petitioners shall lodge their

objections to the acquisition proposals notified by the 1st respondent on 17-10-2005 within two (2) weeks from today. On the petitioners' lodging objections within the aforesaid time, the 1st respondent shall consider the same and pass appropriate orders/issue an appropriate notification under Sec.3D of the Act after communicating to the petitioners the decision taken by the 1st respondent on the objections lodged, by registered post with acknowledgment due."

Shri P. Venugopal invited our attention to notification dated 17.10.2005 to show that the particulars like the name of the village, survey/division numbers, type of land and area sought to be acquired were specifically incorporated therein so as to enable the affected persons to lodge objections within 21 days and argued that the learned Single Judge committed an error by treating the same as vague. Learned counsel made pointed reference to the averments contained in the writ affidavit of respondent No.1 to show that the responders were very much aware of the fact that the land forming part of their shops is proposed to be acquired for widening of NH-7, but they deliberately omitted to file objections. Shri Venugopal emphasized that other similarly situated persons filed objections, which were duly considered and disposed of by appellant No.2 and this, by itself, should have been treated sufficient by the learned Single Judge for negating the respondents' plea that notification dated 17.10.2005 was vague and, on that account, they could not file objections.

Shri Noushad Ali supported the order under challenge and argued that the learned Single Judge rightly quashed notification dated 9.10.2006 on the ground of denial of effective opportunity to the writ petitioners to file objections. He referred to the documents annexed with additional affidavit dated 30.7.2007 filed by respondent No.1 and argued that failure of the Central Government to incorporate the names of the owners and the extent of land sought to be acquired

from the particular division resulted in depriving the respondents of opportunity to represent their cause against the proposed acquisition. Learned counsel submitted that the Adangals do not contain sub-division of the land and, therefore, in the absence clear specification of the particular portion of the division, which was sought to be acquired, the respondents could not submit objections. In support of his arguments, Shri Naushad Ali relied on the judgment of the Supreme Court in **Competent Authority v. Barangore Jute Factory**[1].

We have carefully scrutinised the record and considered the submissions and arguments of the learned counsel. For deciding the core issue whether notification dated 17.10.2005 was vague and, on that account, the respondents could not file objections against the proposed acquisition of their land, it will be useful to notice the relevant portions thereof. The same are extracted below:

MINISTRY OF SHIPPING, ROAD TRANSPORT AND HIGHWAYS

(Department of Road Transport and Highways)

NOTIFICATION

(New Delhi, the 17th October, 2005)

S.O. 1489(E) – In exercise of the powers conferred by sub-section (1) of section 3A of the National Highways Act, 1956 (48 of 1956) (hereinafter referred to as the said Act), the Central Government, after being satisfied that for the public purpose, the land, the brief description of which is given in the Schedule annexed hereto, is required for building (widening) of National Highway No.7 on the stretch of land from km.203.000 to km. 293.000 (Hyderabad – Bangalore Section) in Kurnool District in the State of Andhra Pradesh, hereby declares its intention to acquire the said land for the aforesaid purpose.

Any person interested in the said land, may within twenty one days from the date of publication of this notification in the Official Gazette, raise objection to the use of the said land for the aforesaid purpose under sub-section (1) of Section 3C of the said Act.

… … …

The land plans and other details of land covered under this notification are available and can be inspected by the interested

persons at the office of the competent authority.

SCHEDULE

Brief description of the land with or without structure falling within the proposed right of National Highway No.7 from 203.000 km to km.293 (Hyderabad – Bangalore Section) in Kurnool District, in the State of Andhra Pradesh.

S.No.	Name of the Village	Survey No./ Division No.	Type of land	Area Acquired (Acres)
1	2	3	4	5
1.	Ulindakonda	… … 430C/2F 440/2B1 440/2B3 439D/3F 439C/2B ... …	…… Private Private Private Private Private … …	…… 0.03 0.20 0.02 0.11 0.19 … …
2.	Chetlamallapuram	… …	… …	… …
3.	Kallur	… …	… …	… … **(F.No.NHAI/NS-2/S-1/LA Kurnool/2005/Part I) Prabhakar, Dy. Secy.**

A reading of the above reproduced extracts of the preliminary notification makes it clear that not only the name of the village, survey number/division number, type of land and the area sought to be acquired were indicated therein, but the interested persons were informed in clear terms that they can inspect the land plans and other details of the land covered by the notification. The availability of such plans and details of the land covered by notification dated 17.10.2005 is established by the averments contained in paragraphs 8 to 10 of affidavit dated 30.7.2007 of respondent No.1 – M. Ramesh Babu, which is accompanied by certified copies of the field maps issued by Tahsildar, Kallur Mandal, Kurnool District. For the sake of reference,

three paragraphs of the affidavit of respondent No.1 are reproduced below:

8. I respectfully submit that as per the Adangals there are no sub-divisions as 430C/2F, 440/2B1, 440/2B3 and 439D/3D, 439D/3F and 439C/2B. However, from the copies of the Field Maps furnished by the MRO it is seen that a survey of the field was made on 10.-06-2005 and the sub divisions were made as 430C/2A to 2F, 440/2B1 to 2B4, 439D/3A to 3F and 439/2A, A1, A2 and 2B, 1B and 2.

9. I respectfully submit that as per the Field Map the land in sub divisions 430C/2F is 0.03 cents, Sy.No.440/2B1 consists of 0.20 cents, Sy.No.440/2B3 consists of 0.02 cents, Sy.No.439D/3D consists of 0.10 cents, Sy.No.439D/3F consists of 0.11 cents and Sy.No.439C/2B consists of 0.19 cents.

10. I respectfully submit that the sub divisions as shown in the Field Maps are not within the knowledge of the petitioners. No survey as contemplated under the A.P. Survey and Boundaries Act was conducted which contemplate notice to the interested persons or the land owners. In fact the Field Map does not even show the location of the National Highway in order to enable the interested persons to know which side of the Highway land would be affected.

It is neither the pleaded case of the respondents nor Shri Noushad Ali argued that his clients were not aware of the publication of notification in the Gazette of India and newspapers “Praja Sakthi” and “The Hindu” and the particular sub-division of the survey number of their shops and the fact that the authorities of NHAI were seeking to acquire the land for widening of NH-7. Rather, a careful reading of the affidavits of Shri M. Ramesh Babu shows that the writ petitioners (the respondents herein) were very much aware of the particulars of that sub-division. If those sub-division numbers and the extent of land are tallied with the details given in notification dated 17.10.2005, it becomes clear that appellant No.1 had given sufficient particulars of the land proposed to be acquired. The respondents could have approached appellant No. 2 and sought inspection of land plan and other details of the land covered by the notification.

However, the fact of the matter is that they did not do so. Therefore, the complaint made by them after issue of final notification was clearly an afterthought to wriggle out of their failure to file objections within 21 days and the learned Single Judge committed an error by entertaining and accepting the same for the purpose of quashing notification dated 9.10.2006.

The judgment of the Supreme Court in **Competent Authority v. Barangore Jute Factory** (supra) is clearly distinguishable. The notification, which was quashed by the Calcutta High Court, contained Dag No., Khaitan No., full area, land classification and acquisition/alienation proposed. The area of the land comprised in some of the Dag Nos. was huge i.e. 17 acres, 10 acres and 6 acres, out of which only a small fraction was sought to be acquired without giving details of the particular parcels. The Supreme Court noted this peculiar feature of the notification and observed:

"The appendix contains a long list of various portions of lands sought to be acquired. The list runs into more than 10 pages in the paper-book. We have chosen to reproduce only a small portion of the appendix in order to appreciate the rival contentions of the learned counsel for the parties. The learned counsel for the writ petitioners submitted that the purpose of giving a brief description of the land sought to be acquired is that the person whose land is to be taken away, should at least know what he is being deprived of. This becomes all the more necessary when only a part of the land out of a bigger chunk of land is sought to be acquired. A reference to the tables forming part of the appendix, which according to the acquiring authority contain a brief description of the land, will show that under various heads, only part of bigger chunks of land is being acquired. If the entire land falling in a particular survey is acquired, there cannot be any problem of identification of land. But when only a part of the land out of larger tract of land is sought to be acquired, the question arises which part is going to be acquired. For instance, in the first table full area of land in Dag No.1448 at Serial No.3 is 17 acres as per column 5. Column 7 indicates that only a part of the said 17 acres is being acquired and as per column 8, the part which is sought to be acquired is 2.7500 acres. For instance, in the first table full area of land in Dag No. 1448 at Serial No. 3 is 17 acres as per column 5. Column 7 indicates that only a part of the said 17 acres is being

acquired and as per column 8, the part which is sought to be acquired is 2.7500 acres. This means out of 17 acres only 2.7500 acres is being acquired. The question will arise as to which side this part which is sought to be acquired is falling, it could be anywhere on the northern, southern, western, eastern sides or in the centre. How one to know which part is is under acquisition? Similar position emerges with reference to other serial numbers where only part of larger chunks of land is being acquired. Such cases are several when we look at the entire appendix and the tables forming part of it. According to the learned counsel for the writ petitioners, the absence of information as to which part of the land is being acquired makes the description insufficient, rather vague. The owners are not in a position to identify the land under acquisition. It also renders it impossible to make the claim regarding compensation for the land under acquisition because it is a matter of common knowledge that in bigger tracts of land, certain areas on a particular side are more valuable than the others……"

Their Lordships of the Supreme Court then noted the contentions urged on behalf of the parties and held:

"So far as the question whether the impugned notification meets the requirement of Section 3-A(1) of the Act regarding giving brief description of land is concerned, we have already shown that even though plot numbers of lands in respect of each mouza are given, different pieces of land are acquired either as whole or in part. Wherever the acquisition is of a portion of a bigger piece of land, there is no description as to which portion was being acquired. Unless it is known as to which portion was to be acquired, the petitioners would be unable to understand the impact of acquisition or to raise any objection about user of the acquired land for the purposes specified under the Act or to make a claim for compensation. It is settled law that where a statute requires a particular act to be done in a particular manner, the act has to be done in that manner alone. Every word of the statute has to be given its due meaning. In our view, the impugned notification fails to meet the statutory mandate. It is vague. The least that is required in such cases is that the acquisition notification should let the person whose land is sought to be acquired know what he is going to lose. The impugned notification in this case is, therefore, not in accordance with the law."

It is also significant to note that the notification, which was considered by the Supreme Court, did not contain reference to any

land plan. Not only this, incorrect assertions were made before the Supreme Court that the plans were available and were produced before the High Court. Their Lordships of the Supreme Court took cognizance of this lacuna and observed:

"The availability of a plan would have made all the difference. If there is a plan, the area under acquisition becomes identifiable immediately. The question whether the impugned notification meets the requirement of brief description of land under Section 3-A(2) goes to the root of the matter. The High Court rightly observed: "It is just not possible to proceed to determine the necessity of acquisition of a particular plot of land without preparation of a proper plan." The appendix to the impugned notification shows that in many cases small parts of larger chunks of land have been notified for acquisition. This is not possible without preparing a plan. But where is the plan? The notification in question makes no reference to any plan. Our attention was drawn to averments in pleadings by the writ petitioners and replies thereto of the acquiring authority. The writ petitioners have pleaded that there was no plan. Replies are vague and by way of rolled-up answers. There is no specific reply. It is obvious that there was no plan and, therefore, none was referred to in the pleadings nor anything was produced before the Court at the hearing. Learned counsel for the competent authority tried to submit before us that there was a plan at the time of issue of the notification and the writ petitioners ought to have inspected it, if they so desired. He further submitted that the plan was produced before the High Court. We find that both these submissions are not sustainable as they are not correct. A reference to the impugned notification shows that there is no mention of any plan. Without this how can anybody know that there was a plan which could be inspected and inspected where? We are inclined to accept that there was no plan accompanying the impugned notification. During the course of hearing we were shown a plan which we are unable to link with the impugned notification. This was a 1996 PWD plan. PWD is a department of the State Government. The impugned notification is by the Central Government. NHAI is established under a Central Act. The competent authority under Section 3 of the Act is appointed by the Central Government. Therefore, this State Government plan of 1996 (the impugned notification is of 1998) is of no assistance. The impugned judgment of the High Court emphasises the need for a plan. It is clear from the judgment of the High Court that no plan was produced before it. The absence of any reference to a plan in the impugned notification and in fact non-availability of any plan linked to the

notification, fortifies the argument that the description of the land under acquisition in the impugned notification fails to meet the legal requirement of a brief description of the land which renders the notification invalid."

(Emphasis added)

The above extracted portions of the judgment shows that the finding and conclusions recorded by the Supreme Court were based on peculiar facts of that case. Therefore, that judgment cannot be made basis for sustaining the order under challenge because, as mentioned above, notification dated 17.10.2005 not only contained the description of the land proposed to be acquired, but made it clear that the land plans and other details of the land covered by the notification are available in the office of the Competent Authority and the interested persons can inspect the same. If the writ petitioners thought that there was some ambiguity in the particulars incorporated in the notification, they could have approached appellant No.2 and inspected the land plan and other details and then filed objections. It is a different thing that they did not adopt that course.

In view of the above discussion, we hold that the learned Single Judge was not justified in quashing notification dated 9.10.2006 on the ground that the preliminary notification was vague and, on that account, the writ petitioners were deprived of the opportunity to file objections.

For the reasons stated above, the appeal is allowed. The impugned order is set aside and the writ petition filed by the respondents is dismissed.

G.S. SINGHVI, CJ

September 19, 2007

C.V. NAGARJUNA REDDY, J

SVS/ARS

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[1] (2005) 13 SCC 477 = I (2006) CLT 108 (SC)